

ANNEX



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: MAUDE ET AL.

SERIAL NUMBER: 09/871,390

FILED: MAY 31, 2001

FOR: PROCESS FOR APPLYING A
DECORATIVE PATTERN TO
EARPLUGS

)
)
) Group Art Unit:
) 2854

) Before the Examiner:
) Leslie Evanisko
)
)

Assistant Commissioner for Patents
Washington, D.C. 20231

DECLARATION UNDER 37 CFR 1.132

RECEIVED
DEC 23 2003
TECHNOLOGY CENTER 2800

Daniel A. Maude and John Journey, the undersigned, hereby declare and say
that:

1. We are the sole inventors of the invention claimed in the above-identified patent application.
2. We have reviewed and understand the above-identified application, including the claims.
3. We are familiar with EARSoft Blasts, a hearing protection product produced by Aearo Company, and we believe that such product is formed according to the process of the invention described and claimed in the above-identified application.
4. We are familiar with EARSoft Neons, a hearing protection product produced by Aearo Company, and we believe that such product is formed outside

of the process of the invention which is described and claimed in the above-identified application.

5. The EARSoft Blasts and the EARSoft Neons are sold at identical prices, are similarly packaged, and offer the same performance to a user; both products were launched at the same time and are sold to similar customers in the same markets.

6. The only substantial difference between the EARSoft Blasts and EARSoft Neons is that the former is formed according to the process of the invention described and claimed in the above-identified application, and the latter is not.

7. Total Aearo Company sales of the EARSoft Blasts in the year 2002 exceeded total sales of the EARSoft Neons, for the same period, by over thirty percent (30%). Total Aearo Company sales of the EARSoft Blasts in the year 2003 to date exceeded total sales of the EARSoft Neons, for the same period, by over forty percent (40%). Growth in total Aearo Company sales of EARSoft Blasts during the period of 2002 to present exceeded growth in total sales of EARSoft Neons, for the same period, by approximately ten percent (10%).

8. The EARSoft Blasts have experienced commercial success, as demonstrated in number 7 above. This commercial success is directly attributed to the claimed invention.

9. The undersigned declares that all statements made herein of their own knowledge are true and that all statements made on information and belief are

believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

Date: 11-29-03



Daniel A. Maude

Date: 11/25/2003



John Jurney